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8
9 **IN THE UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
10 **SAN FRANCISCO DIVISION**

11
12 JOHN DOE,

13 Movant,

14 vs.

15 U.S. SECURITIES AND EXCHANGE
COMMISSION,

16 Respondent.
17

Case No. 3:11-MC-80184-CRB (NJV)

DECLARATION OF KYLE P. DE JONG
IN SUPPORT OF RESPONDENT'S
OPPOSITION TO MOVANT'S MOTION TO
QUASH SUBPOENA

Date: TBD

Time: TBD

Place: Eureka Courthouse - 205A, 2nd floor

1 I, Kyle P. De Jong, declare as follows:

- 2 1. I am an attorney in the Division of Enforcement at the Chicago Regional Office of the U.S.
3 Securities and Exchange Commission ("SEC"). I write this declaration in support of the
4 SEC's opposition to Movant John Doe's ("Movant") motion to quash the administrative
5 subpoena issued to Google, Inc. on June 30, 2011. Unless otherwise stated, I have personal
6 knowledge of the facts stated herein.
- 7 2. On May 13, 2011, the SEC issued a formal order of private investigation entitled *In the*
8 *Matter of Jammin Java Corp.*, Commission File No. C-07826 (the "Formal Order"), pursuant
9 to Section 20(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77t(a), and
10 Section 21(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78(u).
11 A copy of the Formal Order was filed under seal by Movant on August 4, 2011. *See* 8/4/11
12 Rosenfeld Mot. To Quash Decl., Ex. B.
- 13 3. The Formal Order directs the staff of the SEC (the "Staff") to investigate potential violations
14 of Sections 5(a), 5(c), 17(a), and 17(b) of the Securities Act, 15 U.S.C. §§ 77e(a),(c),
15 77q(a),(b), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), as well as Rule 10b-5
16 thereunder, 17 C.F.R. § 240.10b-5.
- 17 4. The Formal Order directs the Staff to investigate possible violations of these provisions by
18 Jammin Java and its officers, directors, employees, partners, subsidiaries, consultants,
19 partners, and affiliates as well as "other persons or entities."
- 20 5. The Staff is investigating whether thousands of investors were defrauded out of millions of
21 dollars when they purchased shares of Jammin Java securities at artificially inflated prices
22 based upon online newsletters that were widely disseminated through blast emails, websites,
23 and investor message boards.
- 24 6. According to pricing information obtained from OTC Markets Group, Inc. and Yahoo
25 Finance, Jammin Java's share price rose from \$0.17 in December 2010 to \$6.35 on May 12,
26 2011, after which it plummeted to less than a dollar per share. *See* Jammin Java pricing
27 information obtained from www.otcquote.com and www.finance.yahoo.com (attached hereto
28 as Exhibit A).

- 1 7. The Form 10-Q filed by Jammin Java on December 20, 2010 states that (i) Jammin Java is a
2 shell company; (ii) Jammin Java had not generated any revenues since its inception; and (iii)
3 Jammin Java had an accumulated deficit of \$511,760. *See* 12/20/10 Jammin Java 10-Q
4 (attached hereto as Exhibit B).
- 5 8. The rapid increase in Jammin Java's share price coincided with the wide dissemination of
6 online newsletters touting Jammin Java's stock.
- 7 9. The Staff is investigating whether the online newsletters contained materially misleading
8 information about Jammin Java and its stock and/or failed to accurately disclose the
9 disseminators' financial interests in Jammin Java and the compensation paid to them by
10 Jammin Java, its affiliates, and/or others.
- 11 10. The Staff is seeking information about who sent and is responsible for the newsletters that
12 touted Jammin Java's stock and has obtained information indicating that an individual using
13 the email address "aurorapartners@gmail.com" may be involved in the touting activity at
14 issue in this investigation.
- 15 11. To identify that person and his/her role in the "pump and dump" scheme, on June 30, 2011,
16 the Staff issued an administrative subpoena to Google requesting identifying information
17 regarding the subscriber with the address "aurorapartners@gmail.com."
- 18 12. On July 1, 2011, Google sent a letter to the Staff advising it that Google intended to provide
19 notice of the subpoena to its customer on July 6, 2011. Google also advised the Staff that it
20 intended to give the customer 20 days to either object or file a motion to quash.
- 21 13. On July 28, 2011, counsel for Movant contacted the Staff and requested a copy of the
22 subpoena issued to Google.
- 23 14. Before the Staff responded, on July 29, 2011, Movant's counsel sent the staff a letter
24 indicating that Google had already provided Movant with a copy of the relevant subpoena and
25 requesting a copy of the Formal Order.
- 26 15. On August 2, 2011, the Staff provided Movant's counsel with a copy of the Formal Order.
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1 I declare under the penalty of perjury under the laws of the United States of America and the
2 State of Illinois that the foregoing is true and correct.

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4 Executed: August 19, 2011



5 Kyle P. De Jong

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